

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERNEST KWASI BANKAS,

Defendant.

ORDER

06-cr-36-bbc

Defendant pleaded guilty to one count of obtaining a student loan by false and fraudulent statements in violation of 20 U.S.C. § 1097(a). He was sentenced on December 1, 2010 to a term of imprisonment of 24 months and ordered to pay restitution in the amount of \$340,810.00.

Defendant has now filed a notice of appeal from the December 1, 2010 judgment of restitution and a request for appointment of counsel.

When defendant was sentenced on November 30, 2010, he had ten days from the entry of the judgment on December 1, 2010 in which to file a notice of appeal. That date is long past. It appears that he has waited too long to file a notice of appeal but decisions on the timeliness of appeals are for the court of appeals to make, not the district court.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization "unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed." Defendant had appointed counsel during his criminal proceedings and I do not intend to certify that the appeal is not taken in good faith. Defendant's challenges to his sentence are not wholly frivolous. A reasonable person could suppose that they have some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

As to defendant's request for appointment of counsel, he should make that request to the court of appeals.

ORDER

IT IS ORDERED that defendant Ernest Kwasi Bankas's request for leave to proceed in forma pauperis on appeal is GRANTED.

FURTHER IT IS ORDERED that defendant's motion for appointment of counsel is

DENIED; the motion should be filed in the court of appeals.

Entered this 7th day of December, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge